

**NOTE: This report was adopted by the
full Environmental Quality Service Council**

**REPORT TO THE ENVIRONMENTAL QUALITY SERVICE COUNCIL FROM THE
UNDERGROUND STORAGE TANK SUBCOMMITTEE**

CHAIRMAN DAVID WOLKINS

October 9, 1998

The Underground Storage Tank Subcommittee met twice to discuss issues related to the pending December 22, 1998 upgrade deadline imposed by the U.S. EPA. The subcommittee convened on July 28 and again on August 27. Two issues of interest were raised and studied by subcommittee members, including:

1. How the Indiana Department of Environmental Management (IDEM) intended to enforce the pending deadline.
2. The possibility of expanding S.E.A. 158, the underground storage tank grant program, to a small number of marketers who, due to lack of information and timing were not able to take advantage of the program.

UST UPGRADE ENFORCEMENT

With regard to the first issue, the Indiana Petroleum Council and the Indiana Petroleum Marketers and Convenience Store Association had expressed concern the IDEM was not working effectively toward the development an enforcement program that would be in place on December 23, 1998. The petroleum industry had gotten mixed signals from the agency regarding the agency's authority as well as their intent to aggressively enforce the upgrade requirements.

The establishment of the subcommittee encouraged the agency and the industry to begin meeting and develop an enforcement program. The agency has already sent out to all registered tank owners a memorandum (attachment 1) which reminds them of the impending deadline, provides a summary of the requirements, and, most importantly, sends a very strong message that the deadline will not be extended under any circumstances. The memorandum also included a summary of penalties the agency is prepared to assess for noncompliance.

Because much of the agency's historic information regarding upgrades made to USTs has been lost, the agency will soon be mailing to all registered tank owners an "Affidavit of Compliance" form (attachment 2). The agency will require all owners to complete the affidavit by indicating which type of upgrades have been made and require a signature of a responsible person under penalties of perjury. The agency has indicated that those who do not send a completed affidavit back will be the first to be inspected for compliance.

Suppliers of fuel products can and will rely on the affidavits as well. Suppliers will be apprehensive to supply fuel to tanks which have not been upgraded. Many fuel suppliers have developed their own form for upgrade certification while others are likely to request copies of the forms provided to the agency. **A continuing concern for suppliers is the possibility of having to decide whether to supply product for essential services (for example: school corporations for buses, police and fire departments, ambulance, highway departments, etc.) when no upgrades have been made.**

Finally, the agency will publish a nonrule policy document (attachment 3) in the Indiana Register which will provide the regulated community guidance on how the agency will determine penalties for violations of the upgrade requirements.

The subcommittee recommends that in 1999 the EQSC continue oversight and receive reports of the agency's progress in enforcing the upgrade requirements.

UST GRANT PROGRAM

Subcommittee Chairman Wolkins indicated his desire to attempt to expand the UST grant program, which was authored by Senator Gard in 1998 and has proven to be a very successful program.

Senate Enrolled Act 158 provided \$600,000 to be used for grants to persons wishing to close or remove underground storage tank facilities. The grants were only made available to owners/operators who are going out of the fuel business, are registered and current with payments to the excess liability fund, and have adjusted gross incomes of

less than \$50,000 each of the last five years. The program has been ably administered by the Indiana Development Finance Authority (a summary of the program and grants having been awarded so far is provided in attachment 4).

Members of the subcommittee indicated that they had become aware of a few marketers who closed their tanks between January 1, 1998 and June 30, 1998 (the effective date of the legislation was July 1, 1998) who could have taken advantage

of the closure grant program if they had known about it.

IDFA provided testimony that approximately 8-12 owners/operators who closed during that time period may have qualified for the grants. Chairman Wolkins indicated his desire to find funding and amend the statute in order to allow them in to the program provided they meet all the requirements. The average tank closure under the grant is costing approximately \$10,000.